IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 9TH AUGUST 2007 / 18TH SRAVANA 1929

Bail Appl..No. 4703 of 2007()

CRMP.1651/2007 of DISTRICT COURT, KOTTAYAM
CRIME NO.74/07 OF CHINGAVAHNAM POLICE STATION

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PETITIONER/ACCUSED:

SAJITH, S/O. E. BASHEER,
SHAFEEK MANZIL, ILLICKAL, KILLIOOR POST,KOTTAYAM.

BY ADV. SRI.A.K.HARIDAS
SRI.K.N.RAMACHANDRAN NAIR

RESPONDENTS: RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
CHINGAVANAM POLICE STATION, KOTTAYAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 09/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 4703 OF 2007

Dated this the 9th day of August, 2007

ORDER

The petitioner is the 2nd accused in a crime registered under Sec.436 of the IPC. A shed/shop belonging to another in which the de facto complainant was carrying on business of fruit vending was allegedly set fire on the night of 23/2/07. On the next morning, on a complaint of the de facto complainant, the crime was registered. The de facto complainant had no clue of the miscreants. In the course of investigation, it was allegedly revealed to the Investigating Officer that the 1st accused along with the petitioner herein was found available near the premises without satisfactory explanation. The 1st accused was arrested later in some other crime. He was taken into custody and interrogated. He allegedly made a confession statement revealing the complicity of himself and the petitioner in this crime. Thus, both the accused have been

arrayed and investigation is now in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that except that the petitioner happened to be present along with the 1st accused, there is no other circumstances whatsoever to implicate the petitioner. The petitioner has no criminal antecedents also, it is submitted. In these circumstances, it is prayed that directions under Sec.438 of the Cr.P.C. may be issued in favour of the petitioner.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the allegations are serious. Satisfactory indications pointing to the complicity of the petitioner are available and have already been collected. Interrogation of the petitioner is crucial and vitally relevant for a proper resolution of the crime. Investigators may not be denied the opportunity to effectively interrogate the petitioner in custody. Denial of that opportunity would virtually frustrate the needs of an efficient and expeditious investigation, submits the learned Public Prosecutor.

4. The Case Diary has been placed before me for my perusal. I have perused the same. Having considered all the relevant inputs, I must say, I find merit in the opposition by the

learned Public Prosecutor. This, I am satisfied, is not a fit case where the petitioner can be permitted to arm himself with an order of anticipatory bail. This, I am satisfied, is an eminently fit case where the petitioner must resort to the ordinary and normal course of appearing before the Investigating Officer or the learned Magistrate. He must then seek regular bail in the ordinary course.

5. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge